



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

FEB 09 2004

Marc E. Elias, Esq.
Perkins Coie LLP
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 5225
New York Senate 2000
and Andrew Grossman, as treasurer

Dear Mr. Elias:

On August 10, 2001, the Federal Election Commission notified New York Senate 2000 and Andrew Grossman, as treasurer, your clients, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information provided by you, the Commission, on February 3, 2004, found that there is reason to believe New York Senate 2000 and Andrew Grossman, as treasurer, violated 2 U.S.C. § 434(b), a provision of the Act, and 11 C.F.R. §§ 102.17(c)(8)(i)(A), 104.13(a) and 106.6(d). The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

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You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. *See* 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Thomas J. Andersen, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Bradley A. Smith
Chairman

Enclosure
Factual and Legal Analysis

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1 FEDERAL ELECTION COMMISSION

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3 FACTUAL AND LEGAL ANALYSIS

4 RESPONDENTS: New York Senate 2000 and
5 Andrew Grossman, as treasurer

MUR 5225

6
7 I. GENERATION OF MATTER

8 This matter was generated by a complaint filed with the Federal Election Commission by
9 Peter F. Paul. *See* 2 U.S.C. § 437g(a)(1).

10 II. FACTUAL AND LEGAL ANALYSIS¹

11 A. Complaint

12 Complainant Peter F. Paul alleged, *inter alia*, that he “made cash and in-kind
13 contributions to the federal election campaign of Hillary Rodham Clinton for the U.S. Senate
14 seat representing the State of New York, totaling almost \$2 million” Complaint at 5.
15 Complainant further alleged that his cash and in-kind contributions “have been improperly
16 and/or inaccurately reported by Mrs. Clinton and her federal election campaign committees.” *Id.*
17 at 4. In support of his allegations, Complainant submitted five exhibits: (1) Letters to Mr. Paul
18 from Hillary Rodham Clinton and then-President Bill Clinton; (2) FEC disclosure information
19 showing a \$2,000 contribution from Mr. Paul reported as received by New York Senate 2000 in
20 June of 2000 and refunded six weeks later; (3) a newspaper article reporting on Mr. Paul’s
21 contribution and refund; (4) copies of checks, bank statements, invoices, and receipts; and (5) a
22 three-page letter from Mr. Paul to Senator Hillary Clinton.

23

¹ All of the facts in this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 (“BCRA”), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act herein are as it read prior to the effective date of BCRA and all citations to the Commission’s regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission’s promulgation of any regulations under BCRA.

1 **1. Complaint Letter**

2 The complaint letter alleged in its opening summary that Senator Hillary Rodham
3 Clinton, Clinton for Senate, New York Senate 2000, former Clinton for Senate finance director
4 David Rosen, former Democratic National Committee ("DNC") chair Edward Rendell, former
5 DNC Regional Finance Director Stephanie Berger, Democratic fundraiser James Levin, and
6 former President William Jefferson Clinton "appear to be in violation of" 2 U.S.C. §§ 431, *et*
7 *seq.* and 434(b) and 11 C.F.R. §§ 104.3, 110.9(a), and 110.9(b). Complaint at 1.

8 Peter F. Paul described himself in the complaint as "an acclaimed Hollywood executive
9 with extensive experience in event production, entertainment marketing, and media positioning,"
10 and co-founder of Stan Lee Media, Inc., which by early 2000 "enjoyed a market capitalization of
11 approximately \$350 million." *Id.* at 2. Complainant sought to "build" Stan Lee, the creator of
12 several well-known comic book figures for Marvel Comics, "into a major cultural and branded
13 entertainment figure." *Id.* Complainant stated that he believed "one way to achieve this goal
14 was through politics." *Id.*

15 According to the complaint, Mr. Paul was approached by a former protégé, event
16 producer Aaron Tonken, "about elevating Stan Lee's public profile, recognition and acceptance
17 by contributing money to the Democratic Party." *Id.* The complaint alleged, "Tonken induced
18 Mr. Paul to contribute \$30,000 to the DNC" in connection with a February 17, 2000 event at
19 Café Des Artistes in Hollywood, California. *Id.* Complainant described his role as both a
20 contributor and a "co-host" of the event. *Id.*

21 Based on his discussions with DNC officials Edward Rendell and Stephanie Berger,
22 Complainant believed "his substantial contribution to the DNC would enable [him] to better
23 position himself to enlist [then-President Clinton's] support for recognizing Stan Lee's

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1 significant contributions to literacy and global popular culture, including a Kennedy Center
2 Honor and a White House presentation of a Presidential Medal of Freedom.” *Id.* Complainant
3 stated that he “was prepared to commit a significant portion of his family share holdings in SLM
4 [Stan Lee Media, Inc.], then valued at approximately \$90 million, in order to achieve his strategy
5 of elevating Stan Lee’s public profile, recognition and acceptance through the good offices of
6 The White House,” and therefore was “induced to become a major contributor.” *Id.*

7 The complaint further alleged that “California DNC Finance Chairwoman Stephanie
8 Berger and David Rosen, the Director of Finance for Mrs. Clinton’s Senate campaign, asked
9 Mr. Paul to make a \$150,000 commitment to co-host a luncheon for Mrs. Clinton at Spago
10 [restaurant] in Beverly Hills on June 9, 2000.” *Id.* at 3. Complainant stated that he “agreed to
11 support Mrs. Clinton’s U.S. Senate campaign, however, by making a \$55,000 payment towards
12 satisfying a \$150,000 commitment to co-host the June 9, 2000 luncheon and tea with Stan Lee.”
13 *Id.*

14 The complaint further alleged, “On July 11, 2000, Mr. Paul participated in a conference
15 call with Rosen and other fundraisers for Mrs. Clinton to discuss Mr[.] Paul’s and Stan Lee’s
16 sponsoring a fundraiser for Mrs. Clinton just prior to the Democratic National Convention in Los
17 Angeles, California.” *Id.* Complainant allegedly “suggested a Hollywood Tribute to the
18 President, the proceeds of which would be used to elect Mrs. Clinton to the U.S. Senate.” *Id.*
19 The complaint stated that this event “was to be held on the grounds of the home of radio magnate
20 Ken Roberts, in Brentwood, California.” *Id.* Complainant alleged that he “agreed to finance the
21 Hollywood Tribute fundraiser. All funds raised from persons attending the fundraiser would
22 constitute net contributions to Mrs. Clinton’s U.S. Senate campaign.” *Id.* Complainant stated
23 that his “sole and exclusive intention was to influence the outcome of Mrs. Clinton’s U.S. Senate

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1 campaign, not any other election campaign.” *Id.* The complaint further alleged, “The President
2 and Mrs. Clinton knew this to be the case because Mr. Paul was specifically induced by the
3 President and his agents to assist and boost Senator Clinton’s campaign as a favor to the
4 President.” *Id.*

5 Additional details of the July 11, 2000 conference call were included in a civil complaint
6 filed by Complainant on October 14, 2003 in the Superior Court of California, County of Los
7 Angeles, against former President Clinton, Senator Clinton, Clinton for Senate, New York
8 Senate 2000, Aaron Tonken and David Rosen alleging, *inter alia*, fraud and unjust enrichment:²

9 [] The conference call was organized by Rosen and Levin. Tonken participated
10 as well. Plaintiff [Peter F. Paul], Rosen, Levin and Tonken were physically
11 present in Plaintiff’s office while they spoke, via telephone conference, to
12 officials with [Clinton for Senate] in New York, including campaign spokesman
13 Howard Wolfson.

14 [] During the . . . conference call, Rosen represented to Plaintiff that [Clinton for
15 Senate] wanted to hold a fundraiser in the Los Angeles area to coincide with the
16 Democratic National Convention, which was only four weeks away. Plaintiff was
17 asked to underwrite and produce the event.

18 [] During the conference call, Plaintiff discussed contributing a maximum of
19 \$525,000 to underwrite the Hollywood Tribute and serving as executive producer
20 of the event. Plaintiff also discussed securing world class artists to perform at the
21 event, at his sole expense, to enable [Clinton for Senate] to raise additional funds.

22 [] The Hollywood Tribute was to include a reception, a \$25,000 per couple gala
23 dinner and a \$1,000 per person concert.

24 Complainant stated that he became concerned as the cost of the event exceeded
25

26 \$1 million and complained to Messrs. “Rosen, Levin, and others repeatedly about the cost”
27 Complaint at 3. The complaint alleged, “Rosen told Mr. Paul not to discuss the mounting costs
28 of the fundraiser because, for public relations purposes, Mrs. Clinton’s U.S. Senate campaign did
29 not want the true cost of the fundraiser to become known.” *Id.* Furthermore, Complainant

² The civil complaint contained a detailed account of Mr. Paul’s alleged arrangement with former President Clinton to associate himself with Stan Lee Media, Inc. in exchange for Mr. Paul’s assistance with the August 12, 2000 event. See Plaintiff’s Complaint for Damages and Restitution, *Paul v. Clinton*, No. BC304174 (Cal. Sup. Ct. filed Oct. 14, 2003).

1 alleged that Mr. Rosen told him "that certain fundraising ratios required by federal campaign
2 finance laws would be skewed if the true cost of the fundraiser became known." *Id.*

3 Complainant's civil complaint contained further details of these discussions:

4 [] [I]n meetings in Plaintiff's [Peter F. Paul's] office between July 11,
5 2000 and August 12, 2000, as well as in telephone conversations during
6 this same period, Rosen repeatedly promised and represented to Plaintiff
7 that he and [Clinton for Senate] would make sure Plaintiff's contributions
8 were allocated and reported to federal election authorities in a manner that
9 was consistent with Plaintiff's donative intent and complied with all
10 applicable laws and regulations. Rosen also repeatedly promised and
11 represented to Plaintiff during these meetings and telephone conversations
12 that he would sit down with Plaintiff to review his contributions and
13 determine how they would be reported. Rosen also advised Plaintiff that
14 the reporting did not need to be done until after the November 2000
15 election.

16
17 Complainant alleged, "At all times, President Clinton, Mrs. Clinton, Levin, Rosen and
18 many others knew that Mr. Paul, not SLM [Stan Lee Media], Stan Lee, or anyone else, was
19 paying for the Hollywood Tribute fundraiser." Complaint at 3. Complainant stated that he
20 "repeatedly told Rosen that this was the case, as did SLM Chief Executive Officer and President
21 Ken Williams. SLM General Counsel Ric Madden also told Rosen that SLM could not and
22 would not incur any costs for the fundraiser." *Id.* Further, the complaint alleged, "Rosen also
23 witnessed Mr. Paul writing checks for costs associated with the fundraiser, and in fact had
24 Mrs. Clinton join in negotiating [a] production fee of \$850,000 on behalf of Mr. Paul." *Id.* at 3-
25 4. As described in the civil complaint, Mr. Paul allegedly retained a particular producer at the
26 specific request of the Clintons:

27 [] [T]he Clintons, by and through Rosen, requested that Plaintiff [Peter F. Paul]
28 retain Gary Smith, a CBS producer and friend of the Clintons, to produce the
29 concert portion of the event. Smith and his production company, Smith-Hemion
30 production, had produced President Clinton's first Inaugural Ball and were
31 producing the August 2000 DNC Convention, as well as a gala fundraiser for
32 Vice President Gore to be held after his presidential nomination. At Rosen's
33 request, Plaintiff agreed to negotiate with Smith.

1 [] [O]n or about July 14, 2000 . . . Smith represented to Plaintiff that he would
2 require a "turn key" fee of \$850,000, inclusive of all expenses, to produce the
3 concert portion of the Hollywood Tribute and an edited videotape of the concert
4 When Plaintiff objected to this amount, Rosen represented to him that Smith
5 was a close friend of Mrs. Clinton and that Mrs. Clinton would intervene to get
6 Smith to lower his fee.
7 [] The following day, Rosen represented to Plaintiff that Mrs. Clinton had called
8 Smith and, as a result of Mrs. Clinton's direct intervention, Smith had agreed to
9 lower his fee to \$800,000. . . .

10
11 Complainant claimed that the Hollywood Tribute fundraiser took place on August 12,
12 2000, and that on August 14, 2000, "Mrs. Clinton called Mr. Paul at home to thank him for
13 paying for the Hollywood Tribute fundraiser. In fact, the President and Mrs. Clinton had made
14 several calls to Mr. Paul to encourage his support and to thank him for the event." Complaint at
15 4. Complainant alleged that he "conceived, designed, organized, produced, conducted and paid
16 for the August 12, 2000 Hillary Rodham Clinton fundraising event" *Id.* Complainant
17 placed the total spent at "approximately \$1.9 million of his own personal funds for the
18 Hollywood Tribute fundraiser, which Mr. Paul was told netted Senator Clinton approximately
19 \$1.5 million . . . in direct contributions for her campaign." *Id.* The complaint stated, "There is
20 clear and compelling evidence that Mrs. Clinton and her staff intentionally failed to report direct
21 'in-kind' contributions, in accordance with federal law." *Id.*

22 2. Complaint Exhibits

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13 Exhibit 2 references a contribution of \$2,000 by Peter Paul to New York Senate 2000
14 dated 6/30/00 and a refund of \$2,000 itemized by New York Senate 2000 dated 8/16/00.

15 Exhibit 3 consists of a newspaper article dated August 17, 2000. Lloyd Grove, "Jerry
16 Springer Drops in on 'A Silly Show,'" *The Washington Post*, August 17, 2000, at C1. The
17 article states, "Senate candidate Hillary Rodham Clinton's press secretary misspoke – and
18 convicted felon Peter Paul apparently misremembered – when they told us this week that Paul
19 produced Saturday's star-glutted million-dollar fundraiser but didn't personally give money to
20 Clinton's campaign." The article reported that Complainant had contributed \$2,000 "to
21 Clinton's campaign" and that the check had been returned. The article then described
22 Complainant's criminal record and his activities since prison. The article further stated, "Paul
23 said producer Aaron Tonken, who helped organize the fundraiser at businessman Ken Roberts'
24 Brentwood estate, must have sent candidate Clinton the money on Paul's behalf. 'Aaron had me
25 write checks for a lot of things, and I didn't pay attention,' Paul said." The article quoted
26 Complainant as saying he was paid "a nominal fee" for his production services for the event.
27 The article reported that Howard Wolfson, referred to as a "Clinton spokesman," stated that

1 Stan Lee donated \$100,000 towards the expenses for the event and that the remainder "of the
2 estimated \$1 million-plus cost . . . 'was an in-kind contribution . . . and not a check.'"

3 Exhibit 4 is a compilation of numerous checks, bank statements, invoices, and receipts.
4 Many of the check copies lack signatures, dates, memo descriptions, and payees, and several
5 others are not completely copied (*e.g.*, the payee and amount are copied but the account name
6 and check number are not). All of the checks appear to be drawn on corporate accounts. The
7 total amount of all checks, including duplicates, unsigned checks, and checks marked "not
8 negotiable," exceeds \$2 million. However, as described *infra* in section C.1., after adjustments
9 are made to avoid double-counting any event costs, the amount of expenses represented by
10 Complainant's submission actually totals \$1,094,788.59.

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B. Response of New York Senate 2000

The response of New York Senate 2000 acknowledged that Complainant Peter F. Paul helped New York Senate 2000 “organize an August 12, 2000, fundraising event in Los Angeles, California.” The response further stated that New York Senate 2000 reported “nonfederal in-kind contributions totaling \$366,564.69 from Stan Lee Media, Paul’s firm, in connection with the event,” which was reported on its amended October 2000 Quarterly Report.

The response included press releases from DOJ describing the indictment of Complainant in the Eastern District of New York on two felony counts of securities fraud, as well as the indictment against Complainant in California federal district court for bank fraud and mail fraud. The response contended that the Commission should exercise its prosecutorial discretion in this matter. The response stated, “Paul filed this complaint as a fugitive in order to use the Commission as a weapon. Specifically, he has used the threat of Commission enforcement to extract up to \$2 million from the respondents in this matter.” The response continued, “There is ample reason to believe that Paul’s letter and complaint are intended to continue the fraud of which two grand juries have accused him.” According to the response, New York Senate 2000 “received nonfederal in-kind contributions from Stan Lee Media, the company that Paul allegedly defrauded. By falsely claiming that he – and not Stan Lee Media – made the contributions in question, Paul seeks to obtain a ‘refund’ of someone else’s money.”

The response stated that the copies of checks “prove his intent to deceive” because “[n]ot a single one of the 201 checks indicates a payment of his personal funds.” The response further

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1 stated that, although Complainant alleged that he “personally financed ‘the entire event’ in
2 question,” New York Senate 2000’s reports “show that the Committee directly paid \$100,000 to
3 the event promoter.” The response also noted that Complainant’s “purported largesse changes
4 throughout the complaint.” The response stated that New York Senate 2000 “reported nearly
5 half a million dollars in expenses associated with the August 12 event.” The response explained
6 that New York Senate 2000 “paid \$100,000 directly to Black Ink Productions” and “also
7 disclosed in-kind contributions from Stan Lee Enterprises totaling \$366,564.69 for other event
8 expenses, including \$200,000 paid to Black Ink Productions above and beyond” New York
9 Senate 2000’s direct \$100,000 payment to Black Ink Productions, Inc. The response stated that
10 Complainant’s allegation that the event raised approximately \$1.5 million but cost nearly
11 \$2 million “strains credulity.” According to the response, Stan Lee Media, Inc. was the “true
12 source of in-kind contributions in connection with the event.” The response stated that
13 Complainant “presents no credible reason to doubt what the Committee disclosed on its reports –
14 that Stan Lee Media made in-kind contributions totaling \$366,564.69 in connection with the
15 event.”

16 The response noted that New York Senate 2000 was only mentioned “in a laundry list of
17 eight respondents” and never mentioned again, with the exception of “only four pages of the
18 attachments, which simply document the Committee’s refund of \$2,000 to Paul.” The response
19 contended, “If Paul wants to claim that New York Senate 2000 broke the law, then he must do so
20 directly.” The response claimed that the Commission “cannot relieve him of this burden by
21 presuming that he refers to New York Senate 2000, a joint fundraising committee with multiple
22 participants, every time he mentions Senator Hillary Rodham Clinton or her campaign.”
23

1 C. Analysis

2 As a preliminary matter, because Mr. Paul has been extradited to the United States, his
3 status as a “fugitive” is not at issue in this matter.⁴ The central issue in this matter is whether the
4 costs of an August 12, 2000 fundraising event – billed as a “Hollywood Tribute to President
5 William Jefferson Clinton” – were reported in accordance with the Act and the Commission’s
6 regulations.

7 Based on the available information, it appears that New York Senate 2000 served as the
8 fundraising representative for the August 12, 2000 event and that Clinton for Senate and the
9 DSCC served as the fundraising participants. In a July 30, 2001 response to a Request for
10 Additional Information from the Commission’s Reports Analysis Division, New York Senate
11 2000 claimed that it “raised \$363,465 federal funds and \$708,550 non-federal funds” from the
12 event. Because the DSCC’s non-federal account was legally permitted to accept what would be
13 impermissible funds under the Act, New York Senate 2000 appears to have set up a non-federal
14 account to accept non-federal contributions pursuant to 11 C.F.R. § 102.17(c)(3)(i) (“the
15 participants may either establish a second depository account for contributions received from
16 prohibited sources or they may forward such contributions directly to the non-federal
17 participants”).

⁴ The “fugitive disentitlement doctrine,” also known as the “fugitive from justice” rule, *see, e.g., Barnett v. YMCA*, 268 F.3d 614, 616 (8th Cir. 2001); *Empire Blue Cross & Blue Shield v. Finkelstein*, 111 F.3d 278, 280 (2nd Cir. 1997), has been held as available to both Article III and Article I courts. *See Daccarett-Ghia v. CIR*, 70 F.3d 621, 625 (D.C. Cir. 1995). However, even if Mr. Paul were a “fugitive” at the time he filed the complaint, the doctrine does not act as a bar to Commission action in this matter, as it is employed only by courts to bar private claims by plaintiffs and has never served as a bar to matters before public administrative agencies. Moreover, the policy rationale underlying the doctrine is inapplicable in situations such as this matter. Although a person who believes a violation of the Act has occurred may file an administrative complaint with the Commission, *see* 2 U.S.C. § 437g(a)(1), such a complaint does not present a private legal claim in the manner of a plaintiff’s complaint filed in court. In the latter situation, the complainant is a direct party to the action calling upon a court to adjudicate his or her private claims. By contrast, while an FEC complainant may trigger an enforcement action by the Commission, his or her legal status is not germane to enforcement decisions made by the Commission.

1 Complainant primarily alleged that he provided approximately \$1,900,000 of his personal
2 funds to pay for the August 12 event. New York Senate 2000 reported expenses totaling
3 \$523,794.43 for the same event in its Schedule H4. Complainant submitted copies of over 200
4 checks totaling in excess of \$2 million, as well as various bank statements and invoices, to
5 support his allegations. However, the checks appear to be drawn from corporate accounts,
6 contradicting Complainant's claim that he used "personal" funds to finance the event. Further,
7 some of the checks appear to be duplicates of other checks, and the expense amounts are skewed
8 because one of the corporations involved, Black Ink Productions, Inc., is also named as the payee
9 on several checks from another entity, Paraversal Inc. After making the appropriate adjustments
10 so as to avoid double-counting any expenses, the Commission believes the table below
11 accurately reflects the disbursements that, based on Complainant's document submission, appear
12 to have been made by these corporations:

Black Ink Productions, Inc.	\$612,544.95
Paraversal Inc.	\$229,888.32
Excelsior Productions Inc.	\$126,981.29
Celebrity Enterprises Inc.	\$17,399.21
Hollywood Holdings Corp.	\$14,954.04
Cyberia Inc.	\$5,790.00
Continental Entities Inc.	\$44,275.27
<u>Jennings, Levy, Steine & Co.</u>	<u>\$42,955.51</u>
TOTAL:	\$1,094,788.59

13
14 Although the relationship between Complainant and these corporations has not been fully
15 established, the available information suggests that he may be connected to most of them. For
16 example, news reports have indicated that Complainant "controls" Paraversal Inc., *see*
17 <www.benberkowitz.com/article39.html> (accessed Nov. 25, 2003), and he appears to have
18 signed all of the checks from Paraversal Inc., as well as the checks from Hollywood Holdings
19 Corp. and Celebrity Enterprises Inc. Also, Complainant appears to have used Excelsior

1 Productions Inc., to make a \$30,000 contribution to a non-federal account of the DNC. In
2 addition, Paraversal Inc., Excelsior Productions Inc., Celebrity Enterprises Inc., Hollywood
3 Holdings Corp., Cyberia Inc. and Continental Entities Inc. were described in Complainant's
4 criminal indictment in the Eastern District of New York as having owned stock in Stan Lee
5 Media, Inc.

6 Finally, much of the payment documentation provided by Complainant appears, on its
7 face, to relate to the types of expenses – music, food, security, portable toilets, seating, legal,
8 transportation, lighting, etc. – that would be expected for a large fundraiser, and the checks,
9 invoices and bank statements are dated within a reasonable time period before and after the
10 event. Accordingly, Complainant's financial documentation indicates that disbursements
11 totaling \$1,094,788.59 may have been made in connection with the August 12, 2000 fundraiser.

12 The response of New York Senate 2000 contended that Complainant "presents no
13 credible reason to doubt" its reported amounts, but did not deny that the corporations involved
14 paid the amounts listed above in connection with the August 12 event. For example, the
15 response did not specifically deny the validity of signed checks totaling \$612,544.95, all listing
16 the payor as "BLACK INK PRODUCTIONS, INC. HOLLYWOOD TRIBUTE TO PRES.
17 CLINTON."

18 Based on the Commission's review of New York Senate 2000's itemized disbursements
19 for the event, it appears that as much as \$466,564.69 of total reported expenses of \$523,794.43
20 may be included in the \$1,094,788.59 amount supported by Complainant's financial
21 documentation. First, New York Senate 2000 reported receiving an in-kind contribution of
22 \$366,564.69 from Stan Lee Media, Inc., which, according to Complainant, actually came from
23 him. Second, New York Senate 2000 reported a \$100,000 disbursement of federal funds to

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1 “Black Ink Productions” on July 28, 2000, which is the same amount reported as a deposit by
2 Black Ink Productions, Inc. on August 1, 2000. New York Senate 2000’s remaining itemized
3 disbursements, totaling \$57,229.74, appear to be separate from any of the amounts indicated by
4 Complainant’s documents.

5 Accordingly, it appears that the August 12, 2000 fundraising event may have cost
6 approximately \$1,152,018.33 (\$1,094,788.59 based on Complainant’s documents plus
7 \$57,229.74 in separate reported expenses) and that, if that cost is accurate, New York Senate
8 2000 failed to report at least \$628,223.90 (\$1,152,018.33 in total costs minus \$523,794.43 in
9 reported costs) of these expenses, in violation of 2 U.S.C. § 434(b). New York Senate 2000
10 would have been required to report any such expenses both as contributions received and as
11 expenditures made, *see* 11 C.F.R. § 104.13(a),⁵ and to report the contributions as memo entries
12 in its disclosure reports. *See* 11 C.F.R. § 102.17(c)(8)(i)(A).⁶ If the alleged unreported in-kind
13 contributions are added, the allocation ratio used by New York Senate 2000 (35% federal and
14 65% non-federal) would necessarily change, and New York Senate 2000 would have violated the
15 Commission’s allocation regulations by failing to timely and accurately revise its allocation
16 ratio. *See* 11 C.F.R. § 106.6(d).⁷

⁵ “Each in-kind contribution shall be reported as a contribution in accordance with 11 C.F.R. § 104.3(a) [E]ach in-kind contribution shall also be reported as an expenditure at the same usual and normal value and reported on the appropriate expenditure schedule, in accordance with 11 C.F.R. § 104.3(b).” 11 C.F.R. § 104.13(a)(1)-(2).

⁶ “The fundraising representative shall report the total amount of contributions received from prohibited sources during the reporting period, if any, as a memo entry.” 11 C.F.R. § 102.17(c)(8)(i)(A).

⁷ A committee collecting federal and non-federal funds during a joint fundraising event “shall allocate its direct costs of fundraising . . . according to the funds received method.” 11 C.F.R. § 106.6(d)(1). No later than 60 days after a fundraising event, the committee “shall adjust the allocation ratio . . . to reflect the actual ratio of funds received.” 11 C.F.R. § 106.6(d)(2). New York Senate 2000 reported its revised 65%/35% allocation ratio in its Amended 2000 October Quarterly Report filed on July 30, 2001, almost one year after the event.

1 Therefore, there is reason to believe that New York Senate 2000 and Andrew Grossman,
2 as treasurer, violated 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.17(c)(8)(i)(A), 104.13(a) and
3 106.6(d).

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